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or any one else concerned, to hold a mortgage or deed of trust of personal property fraudulent in law.

[Ed. Note.—For other cases, see Chattel Mortgages, Cent. Dig. §§ 142, 143; Dec. Dig. § 72.* 6 Va.-W. Va. Enc. Dig. 463.]

3. Chattel Mortgages (§ 188*)—Invalidity—Fraud as a Matter of Law.—Where a deed of trust given on a stock of china, which was an exhibit at a fair building, to secure a note, recited that the party of the first part granted unto the trustee the stock of china, but that the grantor should remain in quiet possession and take the profits thereof to his own use until default should be made in the payment of the note, it was fraudulent in law and void, because giving the grantor and debtor a means to defraud his other creditors, and so it could not be enforced by the beneficiary against other creditors of the grantor.

[Ed. Note.—For other cases, see Chattel Mortgages, Cent. Dig. §§ 393-404; Dec. Dig. § 188.* 6 Va.-W. Va. Enc. Dig. 565, 586.]

Appeal from Law and Chancery Court of City of Norfolk.

Bill by Earl S. Gray, as assignee, against the Atlantic Trust & Deposit Company, Incorporated, and another. From a decree for defendants, plaintiff appeals. Reversed and remanded.

KEITH, P., absent.

Morris, Garnett & Cotten, for appellant.

Jeffries, Wolcott & Lankford, for appellees.

HUGHES *v.* BURWELL.

June 13, 1912.

[75 S. E. 230.]

1. Assignments (§ 34*)—Contract—Execution.—Where a contract for the sale of an account against an insolvent firm by plaintiff to defendant was fully arranged, and the details agreed on, so that nothing remained to be done, except to have the account assigned, the fact that the assignment was not made or the contract reduced to writing, because defendant elected to withdraw before the assignment had been prepared, did not indicate that the contract was incomplete, nor preclude plaintiff from suing for breach thereof.

[Ed. Note.—For other cases, see Assignments, Cent. Dig. §§ 67-71; Dec. Dig. § 34.* 1 Va.-W. Va. Enc. Dig. 759; 3 Va.-W. Va. Enc. Dig. 330.]

2. Assignments (§ 34*)—Contract—Breach—Construction.—In an action for breach of a contract to take an assignment of an account

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

against an insolvent, a request to charge that if there was an agreement by defendant to buy plaintiff's claim against the insolvent, with the further understanding that the agreement should be reduced to writing, and the parties failed to reduce it to writing, then the agreement was not perfected, and the jury must find for defendant, was erroneous, and properly refused, as charging that, although there might have been a completed contract, yet if there was an understanding that it should be expressed in writing, and the parties failed to do so, plaintiff could not recover; there being no evidence that it was agreed that the contract should not be final until reduced to writing.

[Ed. Note.—For other cases, see Assignments, Cent. Dig. §§ 67-71; Dec. Dig. § 34.* 1 Va.-W. Va. Enc. Dig. 759; 3 Va.-W. Va. Enc. Dig. 330.]

Error to Corporation Court of Danville.

Action by M. P. Burwell against John E. Hughes. Judgment for plaintiff, and defendant brings error. Affirmed.

Julian Meade, for plaintiff in error.

William Leigh and *Harris & Harris*, for defendant in error.

STANDARD MFG. CO., Inc., et al. v. S. M. PRICE MACHINERY CO., Inc.

June 13, 1912.

[75 S. E. 236.]

Corporations (§ 545*)—Insolvency—Preferences—Waiver or Loss of Right.—Stockholders of a corporation, who were accommodation makers and indorsers of the company's notes, which were secured by a deed of trust, paid a number of the notes, which were destroyed, and new notes issued to the stockholders therefor. An agreement was subsequently made between the corporation and its creditors, by which the creditors agreed to postpone payment of their debts in consideration of the stockholders' agreement that the creditors should be preferred in the distribution of profits or the assets of the company in the event of a sale; and, pursuant to such agreement, the property of the corporation was conveyed to trustees, who took charge of the business for the creditors. The trustees having failed to make a success of the business, the deed of trust was foreclosed, and the property purchased by one of the stockholders, who claimed the right to offset against the purchase price the notes issued in exchange for those secured by the deed of trust and paid by the

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.